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THE INTERIM

**The Monthly Report
of Legislative
Activity**



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DECEMBER 1993 HELENA, MONTANA VOL. IX NO. 7

STATE DOCUMENTS COLLECTION

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SPECIAL SESSION

Legislative Information Services Available...The following legislative information services will be available during the Special Session:

Bill Status

The bill status system has been activated for the Special Session. Status information is available by calling 444-4853.

Within the Capitol, two public computer terminals (unstaffed) providing bill status information will be available, just as they were during the regular session. The third floor public terminal will be located just outside Room 317 in the south corridor, adjacent to the old Supreme Court chambers. The fourth floor public terminal will be located just outside Room 435 (House Bills Distribution).

The Data Distribution Office in the Capitol basement will be open during the session to provide copies of bills and some bill status reports. Normal hours are 8-5 on weekdays and 8-Noon on Saturday.

Phone Service

Room 356 (where the Legislative Information Office was during the regular session) will be open to allow callers to leave messages for legislators. The number to call for this service is 444-4800.

SEP 1993

State Bulletin Board

The state bulletin board is available for public access. No subscriber fee is charged. For the Special Session, a new menu option--Special Session Information--has been added to the main menu of the state bulletin board. For more information, call 444-2921 or 444-1392.

Text of Bills

Copies of introduced bills will be available from the Data Distribution Office in the Capitol basement.

The following services will **NOT** be available during the Special Session:

1. Public access to bill status via modem.
2. Full-service Legislative Information Office.
3. Toll-free number to access Legislative Information Office.

LEGISLATIVE AUDIT COMMITTEE

Audit Committee Meets...The Legislative Audit Committee met on November 16 in Room 104 of the State Capitol. The following reports were presented:

Contracted Audit Reports

Montana State Lottery, Department of Commerce
--Financial Audit
--Montana Cash Drawings
Montana Coal Board Grants, Department of Commerce
Montana Board of Housing, Department of Commerce
Montana Medical Legal Panel, Montana Supreme Court

Financial-Compliance Audit

Montana Council on Vocational-Education

Financial Audit

Guaranteed Student Loan Program, Commissioner of Higher Education

Performance Audit

Foster Care Facility Licensing, Department of Family Services

EDP Audit Follow-up

Department of Transportation

Privatization Plan

Billings Life Skills Center, Montana Department of Corrections and Human Services

Other Business

Budget update

Special Legislative Session

Branch reductions

Branch efficiency

Contract award, Office of Public Instruction

For further information on any of the above reports, please contact the Legislative Auditor's Office, 444-3122.

ADMINISTRATIVE CODE COMMITTEE

Committee to Meet During Special Session...The Administrative Code Committee will hold an organizational meeting during the Special Session. The date, time, and location of the meeting will be announced from the rostrums of the House and the Senate on November 29.

SUBCOMMITTEE ON WORKERS' COMPENSATION ALTERNATIVES

Subcommittee Holds First Meeting...The Joint Interim Subcommittee on Workers' Compensation Alternatives met Friday, October 29 for the first time this interim. Senator John Harp was elected chairman and Representative Vicki Cocchiarella was elected vice-chairman. The Subcommittee heard presentations from Patrick Sweeney, President of the State Fund, John Connor, Jr. and Bob Fairchild of the Department of Justice, Chuck Hunter of the Department of Labor and Industry, and others on the implementation of workers' compensation legislation passed in the 1993 Session. Reports were given on many issue areas including fraud, safety, medical cost containment, and claims liabilities.

Subcommittee Discusses 24-Hour Coverage...Susan Fox, staff researcher, gave an overview of the concept of 24-hour health care coverage. A study plan was adopted, and the next meeting was scheduled for Wednesday, December 1. In order to decide how best to approach the main subject for the interim, the Subcommittee has asked

Representative Duane Grimes, sponsor of the legislation requesting the interim study of 24-hour coverage, to discuss his interest in 24-hour health care coverage at the December meeting. Due to Special Session activities, the time for the meeting has not been set, but the Subcommittee will meet in Room 104 of the State Capitol. The time will be posted with other committee meeting times on November 29.

SUBCOMMITTEE ON INSURANCE ISSUES

Subcommittee Reschedules Meeting...The Subcommittee on Insurance Issues has rescheduled its December 10 meeting for Friday, January 7. The meeting will be held in Room 104 of the State Capitol. Staff will present issue papers on various insurance and tort reform topics for discussion by the Subcommittee.

MONTANA-ARCO LITIGATION OVERSIGHT COMMITTEE

Committee Appointed...In accordance with Chapter No. 354, Laws of 1993, the Speaker of the House and the President of the Senate have appointed the members of the Montana-ARCO Litigation Oversight Committee. The members are Senators Bruce Crippen and Mike Halligan and Representatives Steve Benedict and Bea McCarthy. The purpose of the Oversight Committee is to review the progress of the Montana-ARCO litigation and negotiations regarding the Clark Fork River Basin and to consider plans for the appropriate utilization of any money received by the State as a result of the litigation.

Committee to Hold First Meeting...The Committee will hold its first meeting on Tuesday, November 30 in the Governor's Reception Room in the State Capitol, beginning at 10:30 a.m. Staff from the Department of Health and Environmental Sciences will brief the Committee on the work of the Department's Natural Resource Damage Litigation Program and will review the history and current status of Montana v. ARCO.

WATER POLICY COMMITTEE

Committee Meets in October...The Water Policy Committee met on Monday, October 25 in Helena. A number of issues were considered by the Committee.

Water Data Management

Committee members toured the Natural Resources Information System and Montana Water Information System offices at the State Library. Members were briefed on the various programs and the types of information available.

Water Resources Center

Newly-appointed Center Director Dorothy Bradley updated the Committee on current Center activities and invited closer involvement by Committee members, other legislators, and the broader public in the Center's future development.

Instream Flow

The Committee formed an Instream Flow Study Working Group to accomplish previously identified study goals. The working group is informal and open to any member of the public that wishes to participate. The working group identified a number of important issues involving instream flow that it hopes to address during the interim. By consensus, the working group stressed that there was no legislative goal for the interim, but the working group's efforts should not preclude the development of consensus policy recommendations if appropriate. The working group has invited experienced water law attorneys to address the group and answer questions at the next Committee meeting on November 30. All interested individuals are encouraged to attend and participate.

The Committee also endorsed and agreed to cosponsor an Instream Flow Conference in conjunction with the UM Law School, the Water Resources Center, and the Montana Watercourse. Other groups representing Montana water users will also be involved in the spring 1994 conference.

Other Items...Other agenda items included updates on the joint EQC/WPC water quality nondegradation study and the DNRC state water plan review process.

Late Claims Study - Public Meeting...On Monday evening, the Committee continued its study of late claims issues, mandated by SB 310, with a public meeting regarding potential additional forfeiture remission for late water claim filers. The Committee heard from various

water users who have late claims regarding their perspective on providing additional forfeiture remission.

Next Meeting...The next Committee meeting is scheduled for Tuesday, November 30 in Room 104 of the State Capitol. Due to the Special Session, this abbreviated meeting will focus solely on the instream flow study.

For an agenda or more information on these issues, please contact the EQC staff at 444-3742.

LEGISLATIVE COUNCIL

Council Meets in November...The Legislative Council met on Monday, November 15 in the State Capitol. The Council reviewed and approved plans for the Special Session and approved the hiring of a researcher and an administrative clerk.

Special Session Plans...Karen Kueffler will supervise Legislative Printing and Data Distribution for the Special Session. Marsha Sager will manage the telephone room. Phyllis English will substitute for Marsha in the Council front office. Two proofers and a half-time data entry person will be hired.

The Council approved the recommendation that the deposit for the Special Session proceedings (bills and journals) be \$80, plus an additional \$35 if the proceedings are mailed.

There are currently 132 (as of 11/18 at 8:12 a.m.) bill draft requests. The Executive Director reviewed two legislative branch reorganization proposals.

The Council authorized the drafting and introduction of a bill for the electronic publication of the Journals for the House and Senate.

LEGAL DIVISION

Ballot Measures Received

- Ensure that the state provides public assistance

Note: pursuant to 13-27-202(2), MCA, copies of correspondence are available through the Secretary of State

Code Publication

The index to the 1993 Montana Code Annotated is scheduled to be shipped to subscribers on December 1. The content and method of preparation of the index have been greatly revised in an effort to improve the timeliness and usability of the index. The 1993 index will be three volumes, down from four volumes for the previous two editions.

Special Session

As of 8 a.m. November 18, 1993, 132 bill draft requests had been received.

ENVIRONMENTAL QUALITY COUNCIL

Council Meets in October...The Environmental Quality Council met on Thursday and Friday, October 28 and 29 in the State Capitol.

SJR 34 Hazardous Waste Study...At its meeting on October 28, the EQC's Hazardous Waste Management Working Group developed a set of draft ground rules for how the group will operate and make decisions and began developing a work plan. The working group's next meeting will be on Friday, December 3, starting at 9:30 a.m. in the DNRC Director's conference room. At that meeting, the working group will hear presentations by several agencies on the hazardous waste regulatory framework and will finalize its ground rules. Anyone seeking more information or who is interested in participating in the working group should contact EQC staff.

Nondegradation...The EQC sponsored a 3-hour panel discussion looking at the "nonsignificant activity" issue on Thursday morning. The 10 panelists included representatives from the DHES, the regulated community, and public interest groups. The Joint EQC/WPC Nondegradation Subcommittee analyzed the morning's discussion on Thursday afternoon. The Subcommittee developed consensus recommendations and presented them to the full Council. After substantive discussion, the EQC endorsed the recommendations at its meeting on Friday. For a copy of the Subcommittee recommendations or more information on this issue, please contact EQC staff.

Other Items...Other agenda items included updates on MEPA implementation, energy policy development, the Ground Water Assessment Steering Committee, the Agricultural Chemical Ground Water Management Plan, bull trout issues, and the reauthorization of the federal Clean Water Act. The Council also heard concerns regarding Water Quality Act enforcement in Pondera County.

Next Meeting...The next EQC meeting will be scheduled during the Special Session.

For more information on these issues, please contact the EQC staff at 444-3742.

OVERSIGHT COMMITTEE ON CHILDREN AND FAMILIES

Committee Holds First Meeting...The first meeting of the Joint Oversight Committee on Children and Families was held Friday, October 29. Representative Beverly Barnhart was elected as the chairman, and Representative Randy Vogel will serve as the vice-chairman.

Committee Adopts Study Plan...Andrea Merrill, staff researcher, reviewed the study plan, which emphasizes the Committee's mandated role in monitoring interagency coordination of state prevention programs and funding. The study plan was amended to include the concerns of a number of parents who are seeking improvements in the due process afforded parents whose children are placed in protective custody or foster care.

Committee Hears Nationally-Recognized Speakers...The Interagency Coordinating Council (ICC), recommended by the 1991-92 Joint Interim Subcommittee on Children and Families (Ch. 301, L. 1993) and consisting of department directors and state elected officers who manage state prevention programs, was also meeting for the first time on Friday, October 29. Members of the ICC joined the Oversight Committee for lunch. Through a shared arrangement with the ICC, the Board of Crime Control, and the Department of Corrections and Human Services, the Oversight Committee engaged in discussion with three nationally-recognized experts on state prevention policy collaboration -- Manny Brandt (Virginia), Leon Povey (Utah), and Jerry McCord (South Carolina).

Committee Hears From Interested Persons...Throughout the day, various representatives of state agencies and advocacy organizations concerned with children and family issues were invited to comment on the study plan and the direction of the Committee's study. While no specific date was set for the second meeting of the Oversight Committee, members prefer to meet in early February 1994.

TASK FORCE ON DELIVERY OF STATE LEGAL SERVICES

Task Force Formed...House Joint Resolution No. 25, passed by the 1993 Legislature, directed the Governor and the Attorney General to form a task force to study the delivery of legal services to the executive branch of state government. The task force has been formed and is compiling relevant information from Montana state offices and from other states to determine whether the State's legal services can be delivered more effectively and efficiently.

Public Hearing Scheduled...The task force has scheduled a public hearing to provide an opportunity for interested parties to comment on this topic. The hearing will be held on Wednesday, January 26 in the Department of Transportation Conference Room, beginning at 9:00 a.m.

Written comments may be submitted at the hearing or sent to the following address:

Governor Marc Racicot
State Capitol
Helena, MT 59620

ATTN: Judy Browning

For further information about the task force or the public hearing, please contact Judy Browning in the Governor's Office, 444-3111 or Chris Tweeten in the Attorney General's Office, 444-2026.

THE BACK PAGE

Gambling is fast becoming a lucrative source of revenue for states seeking new ways to fund governmental services. However, states are not the only ones for whom gambling revenues are important. Indian tribes are increasingly turning to gambling as way out of the economic doldrums on their reservations. This month's "Back Page" takes a look at the current status of Indian gambling in the United States and its impact on the states.

A WINNING HAND

by Connie Erickson

For many years, the gambling meccas of Nevada and New Jersey were the only places in America where a person could pull the handle on a slot machine or sit until the wee hours of the morning at a blackjack table waiting for that elusive card combination to appear. Visitors by the thousands poured into Las Vegas, Reno, Lake Tahoe, and Atlantic City year after year in search of a winning hand. Since 1988, however, the gambling landscape has changed, due in large part to the passage of the Indian Gaming Regulatory Act (IGRA). This act allows federally recognized Indian tribes to conduct gambling within the borders of their reservations, even if legalized gambling does not exist within the state where the reservation is located.

The stated purpose of the IGRA is to provide Indian tribes with a "means of promoting tribal economic development, self-sufficiency, and strong tribal governments" (25 U.S.C. 2702). For some tribes, gambling has become an oasis in an economic desert. Reservations have traditionally been plagued with high unemployment, extreme poverty, disproportionate rates of alcoholism, and undeniable despair. A few tribes have successfully developed economies based on manufacturing and natural resources. Others have resorted to such measures as locating hazardous waste incinerators and facilities to hold spent radioactive fuel on their reservations, much to the dismay of their non-Indian neighbors. But since 1988, the real money has come from gambling.

In 1992, 175 tribes offered some form of gambling on their reservations, producing \$6 billion dollars in revenue. The Mashantucket Pequot Tribe in Connecticut grossed \$140 million last year at their Foxwoods Casino. The casino employs 4,370 people with an annual payroll of \$86 million. In San Diego County, California, Indian gambling has created 1,500 jobs with a payroll of \$22 million a year. Some reservations have seen their unemployment rates drop to near zero. Gambling revenues are used to build homes, roads, schools, health clinics, and day care centers. Some

tribes have set up college assistance funds; other have invested the money in other economic ventures in an attempt to diversify and become less dependent on the gambling revenues.

From a tribal perspective, gambling is a key to giving Indians greater control over their own destiny. But to some states where reservations are located, the prospect of Las Vegas-type casinos within their borders has become a nightmare. The IGRA permits a tribe to offer any type of gambling on its reservation if the state allows similar games, even if they are sponsored only by charities or churches. Casino-style gambling, such as craps, blackjack, and roulette, are only permitted when the state and the tribe have negotiated a compact. Many states, as a matter of public policy, have resisted legalized gambling but have allowed "Las Vegas nights" for charitable purposes. These states must now allow casinos on the reservations.

States also fear that the presence of large casinos could have a financial impact on local law enforcement and infrastructure without corresponding revenues to fund these increased services. To address this latter problem, some tribes have agreed to share revenues with the states.

For states where some forms of gambling are allowed, the IGRA also poses problems. Gambling activities are increasingly seen as a growing source of revenue for state and local governments. States, therefore, are understandably reluctant to negotiate higher stakes or a broader range of gambling activities with Indian tribes that could result in decreased state revenues.

Opposition also comes from the non-Indian gambling industry itself. William J. Bisset of the American Greyhound Track Operators Association told a congressional committee that Indian gambling has had a devastating effect on his operators. Donald Trump, owner of three Atlantic City casinos, has filed suit against the federal government, charging that the IGRA strips states of their "sovereign, constitutional powers to tax, regulate, and police gambling activities conducted within their borders". (*Indian Gaming*, June 1993, p. 12.)

With all of the controversy surrounding Indian gambling, the IGRA will be revisited in this session of Congress. Senators Daniel Inouye and John McCain have been conducting discussions with governors, state attorneys general, tribal leaders, and industry representatives to hammer out some sort of a compromise that can be introduced in the form of amendments to the IGRA. Many tribal leaders are nervous about any proposed changes to the IGRA because they fear that changes will inhibit the economic growth that reservations are now experiencing because of gambling. A separate bill has already been introduced by senators and representatives from Nevada and New Jersey called the "Gaming Integrity

and State Law Enforcement Act of 1993". This act would restrict Indian gambling only to those games expressly authorized under state law and conducted by commercial, for-profit business enterprise, and would allow regulation of Indian gambling by states. The bill also redefines Indian lands and Indian tribes, and places a moratorium on tribal-state compacts until all the necessary rulemakings have been completed. This bill is vehemently opposed by tribes because it "tramples all over Indian tribal sovereignty". (*Indian Gaming*, June 1993, p. 18.)

The gambling genie is out of the bottle and neither the tribes nor many of the states are willing to force it back inside. The states believe that the IGRA has shifted the odds in favor of the tribes, and they seek a more level playing ground. The tribes believe that the IGRA has dealt them a winning hand, and they have no desire to fold.



INTERIM CALENDAR

November 29, First Special Session of the 53rd
Legislature, State Capitol, convenes at 9:00 a.m.

November 30, Montana-ARCO Litigation Oversight Committee, Governor's
Reception Room, 10:30 a.m.

November 30, Water Policy Committee, Room 104

December 1, Subcommittee on Workers' Compensation Alternatives, Room
104

December 3, EQC Hazardous Waste Management Working Group, DNRC
Director's Conference Room, 9:30 a.m.

December 24, Christmas Eve, holiday

December 31, New Year's Eve, holiday

1994

January 7, Subcommittee on Insurance Issues, Room 104

January 14, Subcommittee on Veterans' Needs

January 26, Task Force on Delivery of State Legal Services, MDT
Conference Room, 9:00 a.m.

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